

## Addressing Texas' Women's Healthcare Crisis

To address the unintended consequences of current abortion laws, Senator Bryan Hughes and Representative Charlie Geren have filed **The Life of the Mother Act (SB 31 / HB 44)** to clarify and define exceptions that prioritize Texas mothers and provide necessary legal protections for our doctors, while continuing to value the lives of the unborn.

### The Life of the Mother Act Executive Summary

- ① **Maintains current prohibitions on elective abortions.**
- ② **Removes the life-threatening requirement** from the "medical necessity exception" to make it clear physicians do not have to wait until a pregnant woman is on the brink of death to intervene, but can intervene when her condition poses a threat to her major bodily functions.
  - Also amends the exception to clarify that pregnant women diagnosed with a major health issue (such as cancer) have the choice to receive treatment / terminate the pregnancy if needed to prevent harm to the mother.
- ③ **Increases the burden of proof for bringing a claim against physicians**, by requiring prosecutors to plead and prove beyond a reasonable doubt facts that show no reasonable physician would have believed an exception applies (as required by the TX Supreme Court in the *Zurawski* decision).
- ④ **Protects medical professionals from bounty hunter lawsuits** in that:
  - A) "Aiding or abetting" does not apply to communications / services among physicians/staff/patients done to diagnose conditions.
  - B) All involved can rely on a physician's reasonable medical judgment after it has been determined an exception applies.

This will remedy the chilling effect on physician-patient communications and staff fears of supporting legal terminations.
- ⑤ **Requires** the Texas Medical Board and the State Bar of Texas to make available **comprehensive education courses** on the updated abortion laws to increase understanding by the medical/legal professions.
  - Completion of a course is mandatory for practicing OB-GYNs.
- ⑥ **Provides uniformity within and between current statutes** so health care providers can rely on predictable applications of the law, and medical decisions are based on a pregnant woman's conditions, not health care providers' confusion and fear of being sued or going to prison for 99 years.

The goal is to enable physicians to feel safe practicing evidence-based medicine so that women facing pregnancy complications can get the care they need. **Women need to feel safe being pregnant in Texas AND we need to stop the exodus of physicians leaving Texas** who have felt restricted from practicing evidence-based medicine under the current law. Texas needs to attract top quality physicians and residents to alleviate the growing maternal health deserts in Texas and to ensure our medical institutions remain best in class.



## Current Legal Landscape

In 2021, Texas passed two sweeping laws that put new and unintentionally confusing restrictions on the care of pregnant women, enacted severe punishments for doctors, and passed a provision allowing citizens to bring claims against anyone who helps a woman obtain an abortion.

- 1. Human Life Protection Act:** This is Texas' most restrictive abortion law, prohibiting all terminations from the point of conception, except for a "life-threatening physical condition" to a mother that "poses a serious risk of substantial impairment of a major bodily function." Doctors found in violation face criminal, professional, and civil penalties including a minimum \$100k fine, medical license revocation, and up to life in prison. This "trigger ban" took effect in 2022 when the US Supreme Court overturned *Roe v. Wade*.
- 2. Texas Heartbeat Act:** "SB 8" bans abortions once a fetal heartbeat is detected and includes exceptions for "medical emergencies." SB 8 introduces a civil bounty-hunter enforcement scheme (vs government action) which allows private citizens to bring lawsuits against anyone who "aids or abets" an illegal abortion. Successful plaintiffs are eligible for a minimum \$10k reward, court costs, and attorneys fees. This law went into effect in 2021, but other than its civil enforcement action, has been effectively trumped by the trigger ban from conception.

Texas law only allows abortion when a mother's life is at risk. However, vague definitions of "medical emergency" and "life-threatening" conditions create uncertainty, leading doctors to delay or deny care out of fear of legal repercussions.

Hospitals, wary of liability, have tightened restrictions, increasing risks for pregnant women. These laws have also worsened Texas' OB-GYN shortage, exacerbating maternal care deserts that are already in 47% of the state's counties. To protect women and doctors while valuing unborn lives, the Texas Legislature must clarify exceptions and provide legal safeguards.

To protect women and doctors while valuing unborn lives, Senator Bryan Hughes and Representative Charlie Geren filed **The Life of the Mother Act (SB 31 / HB 44)** to clarify exceptions and provide legal safeguards for medical professionals treating women with pregnancy complications.

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